

REMARKS

Upon amendment, Claims 1-8, and 13 are pending in this application. Claims 14-16 have been canceled without prejudice. Claims 1-8 have been amended to recite “or a salt, a hydrate, or a hydrate of a salt thereof” instead of “or a solvate, a salt or a solvate of a salt thereof.” Claim 13 has been amended to recite a “pharmaceutical composition” instead of a “medicament.” Support for these amendments can be found throughout the specification, in particular in the examples, and in the claims as originally filed; particularly at Page 4, Lines 6-7. No new matter has been added by this amendment.

Applicants respectfully reserve the right to pursue any non-elected, canceled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, is respectfully requested, as the application is in condition for allowance.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1-8 dependent claims stand rejected under 35 U.S.C. 112, Second Paragraph, as allegedly indefinite, in particular for allegedly failing to define the chemical composition or structures of the claimed solvates. While Applicants strongly disagree with the Examiner’s allegation, and solely for the purpose of advancing prosecution, Claims 1-8 been amended to recite “a salt, a hydrate or a hydrate of a salt thereof” instead of “a salt, solvate, or solvate of a salt thereof.” Support for these amendments can be found throughout the originally-filed application, including the specification, examples and claims; particularly at Page 4, Lines 6-7.

As such, Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 112, Second Paragraph be withdrawn.

Rejections under 35 U.S.C. § 112, First Paragraph

Claims 1-8 are rejected under 35 U.S.C. 112, First Paragraph, because the specification, while being enabling for a class of compounds of the formula (I), does not allegedly provide enablement for the plurality of general structures claimed. Furthermore, the Examiner alleges that the specification, while being enabling for making salts of the claimed compounds, does not provide enablement for making solvates of the claimed compounds. As stated above, while, Applicants strongly disagree with the Examiner's allegation, and solely for the purpose of advancing prosecution, Claims 1-8 been amended to recite "a salt, a hydrate or a hydrate of a salt thereof" instead of "a salt, solvate, or solvate of a salt thereof."

As such, Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 112, First Paragraph be withdrawn.

Rejoinder of Claim 13

Claim 13 relates to a pharmaceutical composition comprising at least one compound as claimed in claim 1 and at least one pharmaceutically acceptable carrier or excipient. As such, composition claim 13 is commensurate in scope with the present compound claims. Since a search for the compounds of claim 1 will necessarily result in all compositions comprising any such compounds, Applicants respectfully request rejoinder of composition claim 13 in accordance with M.P.E.P. 821.04 and *In re Ochiai*, 71, F.3d 1565 (Fed. Cir. 1995).

CONCLUSION

In view of the remarks made herein, Applicant submits that the application is in condition for allowance, and respectfully request favorable reconsideration of the application and prompt issuance of a Notice of Allowance are respectfully requested. If a telephone conference with Applicant's representative would be helpful in expediting prosecution of the application, Applicants invite the Examiner to contact the undersigned at the telephone number indicated below.

Applicants authorize the Director to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 04-1105, under Order No. 81895(303989).

Dated: October 19, 2009

Respectfully submitted,

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